

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 11th day of October, 2007 at 8:00 P.M., and there were

PRESENT: JOHN ABRAHAM, JR., MEMBER
 WILLIAM MARYNIEWSKI, MEMBER
 RICHARD QUINN, MEMBER
 JAMES PERRY, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 JOHN DUDZIAK, DEPUTY TOWN ATTORNEY
 JEFFREY H. SIMME, BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

THE FOLLOWING MOTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

To amend the motion from the meeting of September 13, 2007 to allow the Zoning Board of Appeals to consider the written communication dated October 11, 2007 and received October 11, 2007 from the Town Attorney to the Zoning Board of Appeals and the communication from Alane Vaillancourt (landscaper) to Burke Homes, LLC dated September 27, 2007 and received by the Zoning Board of Appeals on October 11, 2007.

The question of the adoption of the foregoing motion was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED NO
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

_____Motion Carried

PETITION OF DATO DEVELOPMENT LLC:

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of the petition of DATO Development, LLC, S5540 Southwestern Boulevard, Hamburg, New York 14075, Jeffery Palumbo, Esq. and Brad J. Davidzik, Esq. as agents, 9276 Main Street, Clarence, New York 14031, for thirteen (13) variances for the purpose of constructing 39 townhouse units on property owned by the petitioner which is located at Forestream Village on Slate Bottom Drive, A/K/A Brookside Village Townhomes and identified on the tax map as Section Block Lot numbers 126.54-1-1 through 126.54-1-48 and 126.54-1-55.21 in the Town of Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 12A. of the Code of the Town of Lancaster. The property upon which this variance is sought is 4.16 acres in size. The petitioner's plans call for the construction of 39 dwelling units upon this property.

Chapter 50, Zoning, Section 12A. of the Code of the Town of Lancaster permits a maximum density of 8 units per gross acre where public sewers are available. The petitioner, therefore, requests a variance for the construction of 5.72 units in excess of the permitted 33.28 units.

- B. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(e) of the Code of the Town of Lancaster. The petitioner's plans call for 101,400 square feet land coverage which equates to 56% land coverage.

Chapter 50, Zoning, Section 12C.(1)(e) of the Code of the Town of Lancaster permits a maximum land coverage of 35%, which equates to 63,423 square feet. The petitioner, therefore, requests a land coverage variance of 37,977 square feet.

- C. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(g) of the Code of the Town of Lancaster. The petitioner's plans call for open space/land area of 79,809 square feet.

Chapter 50, Zoning, Section 12C.(1)(g) of the Code of the Town of Lancaster requires that the minimum gross land area to be devoted to attached units excluding the area of public streets on the perimeter of that area shall be equal to the number of dwelling units, 39, times 4,300 square feet, which equates to 167,700 square feet. The petitioner, therefore, requests an 87,891 square foot open space/land area variance.

- D. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a 19.8 foot south rear yard set back for Cluster #22.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a 20.2 foot south rear yard set back variance for Cluster #22.

- E. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a side yard setback of 18.7 feet at the northwest corner and 19.9 feet at the southwest corner of Cluster #22.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot side yard set back. The petitioner, therefore, requests a side yard set back variance of 21.3 feet at the northwest corner and a side yard set back variance of 20.1 feet at the southwest corner of Cluster 22.

- F. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a 19 foot rear yard set back at Cluster #23.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a 21 foot rear yard set back variance for Cluster #23.

- G. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for an 18.8 foot west side yard set back at Cluster #24.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot side yard set back. The petitioner, therefore, requests a 21.2 foot west side yard set back variance for Cluster #24.

- H. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a rear yard set back of 8.05 feet at the northwest corner and 9.43 feet at the northeast corner of Cluster #18.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a rear yard set back variance of 31.95 feet at the northwest corner and a rear yard set back variance of 30.57 feet at the northeast corner of Cluster #18.

- I. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a 32 foot rear yard set back at Cluster #19.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests an 8 foot rear yard set back variance for Cluster #19.

- J. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a south side yard set back of 25.4 feet at the southwest corner and 24.3 feet at the southeast corner of Cluster #21.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a side yard set back variance of 14.6 feet at the southwest corner and a side yard variance of 15.7 feet at the southeast corner of Cluster #21.

- K. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster. The petitioner's plans call for a wall length of 186.5 feet without the requisite offset at Cluster # 19.

Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster requires that any main or longitudinal wall of a sequence of units shall not exceed 132 feet in length without a ninety-degree offset of at least 10 feet. The petitioner, therefore, requests a variance of 54.5 feet.

- L. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster. The petitioner's plans call for an aggregate wall length of 186.5 feet at Cluster # 19.

Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster limits the aggregate length of any wall to 176 feet. The petitioner, therefore, requests a variance of 10.5 feet.

M. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster. The petitioner’s plans call for a wall length of 132 feet without the requisite offset at Cluster # 21.

Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster requires that any main or longitudinal wall of a sequence of units shall not exceed 132 feet in length without a ninety-degree offset of at least 10 feet. The petitioner, therefore, requests a variance of 2 feet.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Elma of the time and place of this public hearing.

Copy of a letter notifying the Town of Cheektowaga of the time and place of the public hearing.

Copy of a letter notifying the New York State Department of Transportation of the time and place of the public hearing.

PERSONS ADDRESSING THE BOARD

Jeffery Palumbo, Esq., Representing DATO Development LLC 9276 Main Street Clarence, New York 14031	Proponent
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Arthur Giacalone, Esq. 140 Knox Road East Aurora, New York 14052	Proponent
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IN THE MATTER OF THE PETITION OF DATO DEVELOPMENT

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of DATO Development and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of October 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Multi-family Residential District 3, (MFR-3) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought; this development is not inconsistent with the character of the neighborhood.

That no detriment to nearby properties will be created by the granting of the area variance relief sought; Forestream Village is a planned development consisting of commercial, multifamily residential, medical offices and various retail services

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought; the applicant has spent an inordinate amount of time to arrive at design compromises with the owners of single family homes adjacent to this property.

That the requested area variance relief is substantial, however, the concept as a whole is balanced and the developer has mitigated early concerns about the development.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is not self created; rather it was a result of Erie County's failure to remove the map cover which was abandoned by the Town of Lancaster and the developer and filed in the Erie County Clerk's Office on February 16, 1990.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby
GRANTED.

**BE IT FURTHER
RESOLVED** that the relief granted herein is granted based upon the testimony
of the landscape architect and the attorney for the petitioner. That an adequate buffer will be
provided by the developer. Such buffer to be determined during subdivision site plan review.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call
which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED.**

October 11, 2007

PETITION OF GERALD N. HIGHWAY:

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Gerald N. Highway, Jr., 574 Ransom Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a 3,888 square foot pole barn on premises owned by the petitioner at 574 Ransom Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 3,888 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 3,138 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is twenty four [24] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests an eight [8] foot height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Gerald Highway, Jr., petitioner 574 Ransom Road Lancaster, New York 14086	Proponent
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Joseph LaFornara 548 Ransom Road Lancaster, New York 14086	Opponent
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Nancy LaFornara 548 Ransom Road Lancaster, New York 14086	Opponent
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IN THE MATTER OF THE PETITION OF GERALD N. HIGHWAY

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Gerald N. Highway and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of October 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought; there are numerous accessory structures in this neighborhood which exceed the height and size of the Code of the Town of Lancaster.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however, not unreasonable.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the structure will be far enough away from the property lines.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought; the petitioner has acquired many large pieces of personal equipment that he wishes to store inside a building.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED.**

October 11, 2007

PETITION OF JOHN & LORRAINE MIKULA:

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of John and Lorraine Mikula, 317 Seneca Place, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a detached garage on premises owned by the petitioners at 317 Seneca Place, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster. The proposed garage will be located two feet [2'] feet from the south side yard lot line.

Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster requires a five foot south side yard lot line set back for an accessory structure. The petitioners, therefore, request a three foot [3'] south side yard lot line set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Lorraine Mikula, petitioner
317 Seneca Place
Lancaster, New York 14086

Proponent

IN THE MATTER OF THE PETITION OF JOHN & LORRAINE MIKULA

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. ABRAHAM, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of John and Lorraine Mikula and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of October 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District 2, (R-2) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought; the neighbors adjacent to this property have written that they have no objection to the granting of this relief.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

October 11, 2007

PETITION OF DOUGLAS BUSZKA:

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Douglas Buszka, 145 William Kidder Road, Lancaster, New York for two [2] variances for the purpose of constructing a detached garage on premises owned by the petitioner at 145 William Kidder Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the garage would result in a five [5] foot west side yard lot line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot lot line set back. The petitioner, therefore, requests a ten [10] foot west side yard lot line set back variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed garage is seventeen [17] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a one [1] foot height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying Town of Marilla of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Douglas Buszka, petitioner
145 William Kidder Road
Lancaster, New York 14086

Proponent

Ronald Wnuk
269 Strasmer Road
Depew, New York 14043

Opponent

IN THE MATTER OF THE PETITION OF DOUGLAS BUSZKA

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Douglas Buszka and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of October 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought for the side yard
set back be and is hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call
which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **ADOPTED**.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought for the height be
and is hereby **GRANTED**.

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **ADOPTED**.

October 11, 2007

PETITION OF JOANNE ROCCO:

THE 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Joanne M. Rocco, 5300 William Street, Lancaster, New York for a Temporary and Revocable Permit for the purpose of allowing the petitioner to conduct sales of antiques and handcrafted items from the petitioner’s premises located at 5300 William Street, Lancaster, New York, to wit:

WHEREAS, Chapter 50, Zoning, Section 45D.(1)(a) of the Code of the Town of Lancaster authorizes the Zoning Board of Appeals to issue a Temporary and Revocable Permit for not more than two [2] years for uses and structures that do not conform with the regulations of this ordinance for the district in which it is located, provided that the use is of a temporary nature and does not involve the erection or enlargement of any permanent structure, and

WHEREAS, the petitioner intends to engage in retail sales of antiques and handcrafted items from her premises which is located in an Agricultural Residential District, (A-R), and

WHEREAS, such retail sales are not a permitted use in an Agricultural Residential District, (A-R).

NOW THEREFORE, in accordance with Chapter 50, Zoning, Section 45D.(1)(a) of the Code of the Town of Lancaster, the petitioner requests a two (2) year Temporary and Revocable Permit be granted by the Zoning Board of Appeals of the Town of Lancaster to permit the conduct of sales of antiques and handcrafted items from the above mentioned premises.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Joanne Rocco, petitioner 5300 William Street Lancaster, New York 14086	Proponent
Eugene Czapski 5312 William Street Lancaster, New York 14086	Comments/Questions
Mark Martzolf 5305 William Street Lancaster, New York 14086	Proponent
Tom Weigel 3710 Bowen Road Lancaster, New York 14086	Proponent

IN THE MATTER OF THE PETITION OF JOANNE ROCCO

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. MARYNIEWSKI
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Joanne Rocco and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of October 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster is desirous of a definition from the legal department of the term "*the use is of a temporary nature and does not involve the erection or enlargement of any permanent structure*" as well as an interpretation of the original intent of the section of the Town Code addressing "Temporary Revocable Permits", namely Chapter 50, Zoning, Section 45D.(1)(a), and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, feels that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

NOW, THEREFORE, BE IT

RESOLVED that this hearing be adjourned to allow for further testimony and evidence to be presented as well as a legal interpretation of the Code of the Town of Lancaster as it relates to "Temporary Revocable Permits" and a legal interpretation of the term "*the use is of a temporary nature and does not involve the erection or enlargement of any permanent structure*".

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution adjourning this case was thereupon **ADOPTED**.

October 11, 2007

PETITION OF CHARLES LONG:

THE 6th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Charles Long, 33 Woodgate Drive, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to the front porch on premises owned by the petitioner at 33 Woodgate Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(a) of the Code of the Town of Lancaster. The proposed porch addition would result in a front yard set back of 31.97 feet.

Chapter 50, Zoning, Section 10C.(3)(a) of the Code of the Town of Lancaster requires a thirty five [35] foot front yard set back. The petitioner, therefore, requests a 3.03 foot front yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Charles Long, petitioner
33 Woodgate Drive
Lancaster, New York 14086

Proponent

IN THE MATTER OF THE PETITION OF CHARLES LONG

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. ABRAHAM
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Charles Long and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of October 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought; because the existing steps are sinking, this addition will be an improvement.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is not self created and should therefore not preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

October 11, 2007

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 10:30 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: October 11, 2007

